

CALIFORNIA STATE PERSONNEL BOARD MEETING
801 Capitol Mall
Sacramento, California

www.spb.ca.gov

Public Session Location - Room 150
Closed Session Location - Room 141

MID-MONTH BOARD MEETING MINUTES

APRIL 18, 2000

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

Florence Bos, President
Ron Alvarado, Vice President
Richard Carpenter, Member
William Elkins, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The Bay Area job fair was a tremendous success. Over 4,000 persons attended. Mayor Jerry Brown dropped by the fair.
- B. Staff of the State Personnel Board and Cooperative Personnel Services continue to work with the Department of Child Support Services to clarify the State Personnel Board's role and responsibilities.
- C. The State Personnel Board website has been updated to be more customer friendly. The website is at:
www.spb.ca.gov.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation

- A. Engel v. Meith, et al. - New complaint for discrimination filed in Superior Court against State Personnel Board staff, former Department of Corrections staff, State Personnel Board and Department of Corrections. Allegations against State Personnel Board and State Personnel Board staff derive primarily from adverse action appeal decided adversely to the plaintiff.
- B. Liu v. state Personnel Board - Two new discrimination complaints filed against the State Personnel Board; one in Superior Court and one in Federal Court. Both actions derive from adverse action appeal decided adversely to plaintiff.
- C. State Personnel Board v. Department of Personnel Administration - State Personnel Board filed reply brief on April 6, 2000. Briefing in this case is now complete.
- D. Alexander v. state Personnel Board - Oral arguments before the Third District Court of Appeal are scheduled for this morning, April 18, 2000.

4. REPORT ON LEGISLATION - Judy Balmain

The State Personnel Board voted on the following:

- A. SB 1419 (Haynes) as amended April 13, 2000. The bill establishes the Private Information Protection Act.
POSITION: Oppose unless amended.
VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.
- B. AB 674 (Wiggins) as amended April 5, 1999. The bill provides that personal services contracts for janitorial and housekeeping services at state developmental centers include benefits.
POSITION: Neutral
VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

BOARD ACTIONS

5. STATE PERSONNEL BOARD SUMMARY MINUTES OF APRIL 4, 2000

ACTION: Adopted on April 18, 2000

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

6. ADMINISTRATIVE LAW JUDGE CASES

On April 18, 2000, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

PROPOSED DECISIONS

DONNA CARROLL-RHOSES, CASE NO. 99-4973

Appeal from constructive termination

Department of the California Highway Patrol

ACTION: Appeal from Constructive Termination Granted

GEORGE M. MOLINA, CASE NO. 99-2039

Appeal from 5 percent reduction in salary for 4 months

Department of Transportation

ACTION: Reduction in Salary Modified to Official Reprimand

KIMBERLY J. ALLISON, CASE NO. 99-5174

Appeal from medical termination

Department of Health Services

ACTION: Medical Termination Sustained

TONI S. FRAZER, CASE NO. 99-4982

Appeal from official reprimand

Department of Corrections

ACTION: Official Reprimand Revoked

OLIVER T. ALETA, CASE NO. 00-0016

Appeal from 120 calendar days suspension and reassignment

Department of Corrections

ACTION: Administrative Law Judge's proposed decision rejected by Board. Board to decide case itself.

LINDA R. GREG, CASE NO. 99-4792

Appeal from rejection

San Diego State University

ACTION: Appeal Dismissed for Lack of Jurisdiction

DIANA FIGUEROA, CASE NO. 99-2916
Appeal from official reprimand
Office of State Public Defender
ACTION: Official Reprimand Sustained

ERIC V. SHELLABARGER, CASE NO. 99-5258
Appeal from 3 working days suspension
Department of Corrections
ACTION: Suspension Revoked

JOHN C. JONES, CASE NO. 99-5201
Appeal from 30-calendar day's suspension
Department of Corrections
ACTION: Suspension Revoked

IRMA CHAVEZ, CASE NO. 99-5023
Appeal from TAU termination with fault
Franchise Tax Board
ACTION: Appeal From Termination with Fault of Temporary
Appointment Denied and Appellant's Name not Cleared

SANDRA STEVENS, CASE NO. 99-3100
Appeal from 5 percent reduction in Salary for 6 months
Department of Developmental Services
ACTION: Reduction in Salary Sustained

MARK RICK, CASE NO. 99-3965
Appeal from 30 days suspension and involuntary transfer
Department of Corrections
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself.

CHRISTINE FEARING, CASE NO. 99-4814
Appeal from constructive medical termination
California State University, Northridge
ACTION: Appeal Dismissed

DALE WATKINS, CASE NO. 99-1548
Appeal from demotion
Department of Fish and Game
ACTION: Administrative Law Judge's proposed decision
rejected by Board. Board to decide case itself.

MARK BISHOP, CASE NO. 99-3341

Appeal from rejection
Department of Corrections
ACTION: Rejection Affirmed and Appeal Denied

MANUEL RODRIGUEZ, CASE NO. 99-2026
Appeal from dismissal and non-punitive termination
Department of Corrections
ACTION: To adopt proposed decision whereby a stipulated agreement previously approved by SPB, the dismissal was amended to a 6-month suspension; and the non-punitive termination sustained

ROBERT W. SMITH, III, CASE NO. 99-1553
Appeal from dismissal
Department of Justice
ACTION: Dismissal Sustained

PETITIONS FOR REHEARING

KEITH M. SCHKODA, CASE NO. 99-0433
Appeal from dismissal
Department of Insurance
ACTION: Petition for Rehearing Filed by Respondent Denied

MARY CATHERINE GRAY, CASE NO. 98-0578
Appeal from dismissal
Department of Corrections
ACTION: Petition for Rehearing Filed by Appellant Granted

SARA CERVANTES, CASE NO. 99-4003
Appeal from termination without fault
Department of Forestry and Fire Protection
ACTION: Petition for Rehearing Filed by Appellant Denied

PAUL VICARIO, CASE NO. 99-4341
Appeal from 1 step reduction in Salary for 12 months
Department of Corrections
ACTION: Petition for Rehearing Filed by Appellant Denied

JOHN WESTFALL, CASE NO. 99-2165
Appeal from LT/TAU termination
Department of Forestry and Fire Protection
ACTION: Petition for Rehearing Filed by Appellant Was
Neither Granted or Denied, but Dismissed for Lack of
Jurisdiction

STEVE SAUCEDA, CASE NO. 99-1422
Appeal from 5 working days suspension
Employment Development
ACTION: Petition for Rehearing Filed by Appellant Denied

7. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1
EXTENSION.

ACTION: See pages 13-15

8. MISCELLANEOUS APPEALS DIVISION CASES
(Discrimination Complaints, Withholds, Voided Appointments,
Rule 211 Appeals, Petitions for Rehearing)
On April 18, 2000, the Board adopted the following decisions
presented by Linda Brooks, Assistant Executive Officer,
California State Personnel Board.
VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

WITHHOLD DENIAL CASES

- A. GEORGE R. FIGUEREDO, Case No. 99-3760
Classification: Cadet, California Highway Patrol
ACTION: DENIED
- B. NORA M. GUERECA, Case No. 99-4005
Classification: Correctional Officer
ACTION: DENIED
- C. CATHERINE SMALL, Case No. 99-3754
Classification: Associate Information Systems Analyst
ACTION: DENIED

9. MEDICAL APPEALS
On April 18, 2000, the Board adopted the following decisions
presented by Linda Brooks, Assistant Executive Officer,
California State Personnel Board.
VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

- A. KEVIN HOFFMAN, Case No. 99-4093
Classification: Youth Correctional Officer
ACTION: GRANTED
- B. CHRIS MONTGOMERY, Case No. 99-4656
Classification: Cadet, California Highway Patrol
ACTION: DENIED

- C. NKESE OKOPEDEGHE, Case No. 99-4748
Classification: Registered Nurse, CF
ACTION: GRANTED

- D. JEFFERY E. ROBERTSON, Case No. 99-4899
Classification: Cadet, California Highway Patrol
ACTION: DENIED

DISMISSAL CASE

- E. DAVID M. TAYLOR, Case No. 00-0421
Classification: Cadet, California Highway Patrol
ACTION: DISMISSED

10. EXAMINATION APPEALS

On April 18, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

- A. LEONARD C. MCLEOD, Case No. 99-4498
Classification: Correctional Lieutenant
ACTION: AFFIRMED the October 5, 1999 decision of the Board denying the examination appeal.

DISMISSAL CASE

- B. KAREN E. HILDEBRAND, Case No. 00-0880
Classification: Assoc. State Archeologist
ACTION: DISMISSED

11. MERIT ISSUE COMPLAINT APPEALS

On April 18, 2000, the Board adopted the following decisions presented by Linda Brooks, Assistant Executive Officer, California State Personnel Board.

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

DISMISSAL CASE

- A. BRENDA SCOTT, Case No. 00-0054
Classification: Office Technician (G)
ACTION: DISMISSED

12. NON-HEARING CALENDAR

On April 18, 2000, the Board adopted items A-E. These items were presented by Laura Aguilera, Chief, Personnel Resources and Innovations Division, California State Personnel Board.
VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.

- A. CUSTOMER SERVICE SPECIALIST/SUPERVISOR, FRANCHISE TAX BOARD
TAX PROGRAM TECHNICIAN, FRANCHISE TAX BOARD
TAX TECHNICIAN, FRANCHISE TAX BOARD
The Franchise Tax Board proposes establishment of a new classification series of Customer Service Specialist/Supervisor, Franchise Tax Board (FTB), with 12-month probationary periods; establishment of ARC 422; and revisions to the series specification for Tax Program Technician, FTB; and Tax Technician, FTB.
- B. PRISON INDUSTRIES MANAGER
PRISON INDUSTRIES ADMINISTRATOR
The Prison Industry Authority proposes to revise the series specification for the Prison Industries Manager and Prison Industries Administrator classifications.
- C. MECHANICAL ENGINEER
ASSOCIATE MECHANICAL ENGINEER
The State Energy Resource Conservation and Development Commission proposes specification revisions to the Mechanical Engineer deep class; revision to Alternate Range Criteria 70; reallocation of employees to the appropriate class/range; and retention of employees by resolution in the class of Associate Mechanical Engineer who do not possess their valid certificate of registration as a mechanical engineer.
- D. ASSOCIATE PROCESS SAFETY ENGINEER
SENIOR PROCESS SAFETY ENGINEER (SPECIALIST)
SENIOR PROCESS SAFETY ENGINEER (SUPERVISOR)
The California State Lands Commission proposes to establish the classes of Associate Process Safety Engineer, Senior Process Safety Engineer (Specialist) with a 12-month probationary period and Senior Process

Safety Engineer (Supervisor) with a 12-month probationary period.

- E. DEVELOPMENTAL SPECIALIST (SAFETY)
PROGRAM ASSISTANT (DEVELOPMENTAL DISABILITIES - SAFETY)
PROGRAM DIRECTOR (DEVELOPMENTAL DISABILITIES - SAFETY)
PROGRAM ASSISTANT (MENTAL DISABILITIES - FORENSIC)
PROGRAM ASSISTANT (MENTAL DISABILITIES - SAFETY)
PROGRAM DIRECTOR (MENTAL DISABILITIES - FORENSIC)
PROGRAM DIRECTOR (MENTAL DISABILITIES - SAFETY)
UNIT SUPERVISOR (FORENSIC FACILITY)
UNIT SUPERVISOR (SAFETY)
The Department of Developmental Services proposes to establish the following Safety parenthetical classes: Developmental Specialist (Safety) with a 6-month probationary period, Program Assistant (Developmental Disabilities - Safety) with a 12-month probationary period, Program Director (Developmental Disabilities - Safety) with a 12-month probationary period; and to re-title the classes of Program Assistant (Mental Disabilities - Forensic) to Program Assistant (Mental Disabilities - Safety), Program Director (Mental Disabilities - Forensic) to Program Director (Mental Disabilities - Safety) and Unit Supervisor (Forensic Facility) to Unit Supervisor (Safety).

13. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

The staff has approved the following actions:

- A. ASSISTANT PUBLIC HEALTH BIOLOGIST
The Department of Health Services is requesting a revision to Alternate Range Criteria 391 for the Assistant Public Health Biologist to recognize experience gained from other than working for one year at Range A to qualify for appointment to Range B.
- B. JUNIOR SAFETY ENGINEER
JUNIOR INDUSTRIAL HYGIENIST
The Department of Industrial Relations is proposing to add an "early entry" feature to the Minimum Qualifications for the classification specifications for Junior Safety Engineer and Junior Industrial Hygienist to allow seniors in college to compete in the examinations and to update the language to reflect current terminology and usage.

ACTION: Noted

14. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

(1) CHIEF, GRANT SERVICES DIVISION

The California Student Aid commission proposes to allocate the above position to the CEA category to manage a large, multi-functional division with major program responsibilities, including all financial aid grant programs, customer services, specialized financial aid programs and the development of operational policies and procedures. The department indicates that the position will be at the second organizational level and will report to the Chief Deputy Director.

(2) PROJECT MANAGER, SYSTEMS DESIGN AND DEVELOPMENT BUREAU
CALIFORNIA CHILD SUPPORT AUTOMATED SYSTEMS PROJECT

The Franchise Tax Board proposes to allocate the above position to the CEA category to be responsible for the overall planning, policy development, direction and implementation of all automation required to provide a statewide system for administration of California's Child Support Enforcement Program. The department indicates that the position will be at the third organizational level and will report to the Project Director.

(3) ASSISTANT DIRECTOR, POLICY AND FINANCE
DRINKING WATER QUALITY PROGRAM MANAGER
CALFED BAY-DELTA PROGRAM

The Department of Water Resources proposes to allocate the above positions to the CEA category to develop, negotiate and implement policy related to long-term governance, program and policy coordination and multi-agency finance structures for the CALFED Program and to manage the policy development and the technical support component for the drinking water quality resource

management element of the CALFED Bay-Delta Program respectively. The department indicates that the Assistant Director, Policy and Finance will be at the second organizational level, reporting to the Executive Director, CALFED Bay-Delta Program and the Drinking Water Quality Program Manager will be at the third organizational level, reporting to the Deputy Director, CALFED Bay-Delta Program.

(4) MEDICAL DIRECTOR

The Medical Board of California proposes to allocate the above position to the CEA category and will be the chief medical official for the Medical Board and will serve as the manager of the Office of the Medical Director. The department indicates the position will be at the second organizational level and will report to the Executive Director.

(5) EXECUTIVE MANAGER, 911 PROGRAM

The Department of General Services proposes to allocate the above position to the CEA category to set policy regarding the implementation of critical 911 services to the public. The department indicates that the position will be at the third organizational level and will report to the Deputy Director.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW CEA POSITIONS

(1) DIRECTOR, CDE PRESS

The Department of Education's proposal to allocate the above position to the CEA category has been approved effective March 24, 2000.

C. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO REFILL CEA POSITIONS ESTABLISHED BETWEEN 6/30/95 AND 1/1/99

(1) ASSISTANT DIVISION DIRECTOR, MARKETING SERVICES BRANCH

The Department of Food and Agriculture's request to refill the above position has been disapproved effective March 24, 2000.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. EQUAL OPPORTUNITY GOALS FOR MINORITIES AND WOMEN
(Hearing held February 9, 2000).

NO ACTION

2. MICHAEL A. THOMPSON, CASE NO. 98-3739. Appeal from dismissal. Department of Corrections. (Oral argument held March 7, 2000.)

NO ACTION

3. ALLEN VIZARD, CASE NO. 99-3708. Appeal from 30-calendar day's suspension. Department of Corrections. (Oral argument held April 4, 2000).

NO ACTION

4. THOMAS BENSON, CASE NO. 99-1386. Appeal from dismissal. Department of Corrections. (Oral argument held April 4, 2000).

NO ACTION

5. GAYLE MCCORMICK, CASE NO. 99-1549. Appeal from demotion. Department of Corrections. (Written argument presented April 4, 2000).

NO ACTION

NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional forty-five days, the Board hereby publishes its substantial reasons for the need for the forty-five day extension for some of the cases now pending before it for decision.

An additional forty-five days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than 6 months as of the date of the Board meeting.

GOVERNMENT CODE § 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

April 18, 2000

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on April 18, 2000.

WALTER VAUGHN
Executive Officer
California State Personnel Board

VOTE: Bos, Alvarado, Carpenter, Elkins - Aye.